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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,206	02/09/2001	Michael Fritz	RDID0028US	5556
20306	7590	10/20/2003	EXAMINER	
MCDONNELL BOEHNEN HULBERT & BERGHOFF 300 SOUTH WACKER DRIVE SUITE 3200 CHICAGO, IL 60606			CHUNDURU, SURYAPRABHA	
			ART UNIT	PAPER NUMBER
			1637	

DATE MAILED: 10/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	<b>Application No.</b> 09/780,206	<b>Applicant(s)</b> FRITZ ET AL.	
	<b>Examiner</b> Suryaprabha Chunduru	<b>Art Unit</b> 1637	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED /29/03 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 36-41 and 68.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

**JEFFREY FREDMAN**  
**PRIMARY EXAMINER**

Continuation of 5. does NOT place the application in condition for allowance because: Applicants' arguments with reference to the rejections made in the previous office action under 35 USC 102 (e) have been fully considered and found not persuasive. With reference to the rejection under 35 USC 102 over Frucht et al. (USPN. 6,054,277), Applicants' argue that the limitation "at least part of the binding space is equivalent to 'the same space' for binding and amplifying nucleic acids and argue that Frucht et al. does not teach integrated device. These arguments have been fully considered and found not persuasive because the device taught by Frucht et al. meets the limitation at least part of the binding space" (see column 4, lines 20-67) wherein Frucht et al. teach that amplification space comprises a round or slit like space for nucleic acid sample which indicates at least part of amplification space comprises nucleic acid binding space and Frucht et al. also teach an integrated system for genetic testing which includes a miniaturized thermal cycling and integrated microchip based detection device as discussed in the rejection made in the previous office action. Applicants further argue that Frucht et al. does not teach reaction vessel surrounded by heatable metal layer and provides a dictionary definition for the term "surround". This argument is fully considered and found not persuasive because Frucht et al. clearly teaches that the amplification chamber is constructed from heater chips, fabricated using integrated circuit technology wherein deposition of conductive metal is created in a coil filament which indicates that the metal heater surrounds the amplification chamber (see column 5, lines 1-20). The arguments are found not persuasive for the reasons discussed above and therefore the rejection under 35 USC 102 over Frucht et al. is maintained herein.

With regard to the rejection made in the previous office action under 35 USC 102(e) over Burns et al., Applicants argue that Burns et al. does not teach a binding space for immobilization and purifying nucleic acids and separation of impurities and does not teach amplification space comprising at least a part of the binding space. This argument is fully considered and found not persuasive. Burns et al. teach interconnected channel to a reaction chamber which indicates that a part of the transport channel is in the reaction chamber (amplification space) and Burns et al. does teach all the limitations in the claims as discussed in the previous office action. Applicants' further argue that Burns et al. does not teach the heatable metal layer surrounding the reaction chamber. This argument is found not persuasive because Burns et al. teach heatable metal resistors in the proximity of the reaction chamber which indicates that the reaction chamber is surrounded by the heatable element. The arguments are found not persuasive for the reasons discussed above and therefore the rejection under 35 USC 102(e) over Burns et al. is maintained herein.